

DEPARTMENT OF STATE A/CDO/AMR

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D.C. : N/A
JULY 31, 1973
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IN : FIVE, 8708, AF
New Government Issues First Decree Legalizing
The Exercise of Power
Kabul
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There follows complete texts of the first three decrees issued
by the new government of the Republic of Afghanistan. See
referenced telegram for context.

Republican Decree No. 1, dated July 27, 1973.

In the name of God Almighty, the Generous, the Merciful, The
President of State of the Republic of Afghanistan proclaims the
following provisions:

First - Afghanistan is a republican state and accords with the
true spirit of Islam.

Second - The provisions of the Constitution of October 1, 1964 are
annulled from the date of the proclamation of the Republic unless
their validity are declared through republican decrees.

Third - The provisions of Chapter Two of the Constitution of
October 1, 1964 related to the King are nullified and invalid from
July 17, 1973.

Fourth - The powers embodied in Article Nine of the Constitution,
of October 1, 1964 are transferred to the President of State of the
Republic pending the promulgation of the new Constitution.

Fifth - The provisions of Chapter Four of the Constitution of
October 1, 1964 relating to parliament are annulled and invalid
from July 17, 1973.

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Sixth - The powers embodied in Article Four of the Constitution of October 1, 1964 are transferred to the President of the Republic pending the promulgation of the new Constitution.

Seventh - The provisions of other laws which do not contravene the republican regime and republican decrees are enforceable.

Eighth - No other law can be promulgated unless officially proclaimed after endorsement by the President of the Republic.

Ninth - To regulate its duties, the government shall prepare in accordance with Republican decrees and laws, regulations which after endorsement by the Prime Minister shall be enforced.

This order is issued for the enforcement of the above mentioned provisions. Signed/Mohammad Daoud, The President of State of the Republic.

Republican Decree No. 2, dated July 28, 1973

In the name of God Almighty, the Benevolent, the Merciful, The President of the Republic of Afghanistan proclaims the following provisions:

First - Officers and members of the armed forces and all civil servants and judges of the state, after taking the oath of loyalty to the Republic of Afghanistan, shall continue their duties.

Second - Those officers and civil servants who have been relieved of their posts through the decision of the Republic shall remain in a state of waiting in accordance with the regulations of the armed forces and Civil Service Law.

Third - Officers of the army and civil servants are subservient to the laws and republican decrees and shall perform their duties in accordance with them and hold responsibility in accordance with the laws.

Fourth - The officers of the army and civil servants are duty-bound in the areas of their duties to sign the following document of loyalty to the Republic:

a - The text of the oath for the army of the Republic of Afghanistan:

I swear by God Almighty and the dignity of the Holy Koran that I shall be loyal to the Islamic Republic of Afghanistan and sacrifice my life in defending and protecting the national honour and territorial integrity of the nation in the honorable service of the state and its flag, under the guidance of the President of the Republic.

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b - The text of the oath for civil servants:

I swear by God Almighty to be loyal to the Republic of Afghanistan, obey the President of the State, respect and enforce the decrees and laws of the Republic and not disobey their provisions, and my aim is to serve for the welfare of the people of Afghanistan and the Republic.

This order is issued for the enforcement of the above-mentioned provisions. Signed/Mohammad Daul, The President of the State of the Republic of Afghanistan.

Republican Decree No. 3, dated July 26, 1973.

In the name of God Almighty, the Benevolent, the Merciful, The President of State of the Republic of Afghanistan proclaims the following provisions:

First - The provisions of Chapter Seven of the Constitution of October 1, 1964 related to the judiciary are abrogated from July 17, 1973.

Second - The powers entrusted to the king in the chapter on the judiciary in the Constitution of October 1, 1964 are transferred to the President of the Republican State from July 17, 1973.

Third - The specific powers of the Chief Justice embodied in Chapter Seven of the Constitution of October 1, 1964 are being transferred to the Justice Minister after the issuance of this republican decree.

Fourth - The powers of the Supreme Court referred to in Chapter Seven of the Constitution of October 1, 1964 are transferred to the Council of Justice in the Justice Ministry.

Fifth - The Council of Justice of the Justice Ministry comprises as members the Minister of Justice (Attorney General) as Chairman, the President of the Cassation Court, the Deputy Attorney General, and the Deputy Minister for Administrative Affairs.

Sixth - The Prime Minister has the authority to appoint one or several learned people as members of the Council of Justice of the Justice Ministry. These members can also be appointed on the proposal of the

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minister of Justice with endorsement from the Prime Ministry. The members of the Council shall not hold any other post in the government.

Seventh - All the courts of Afghanistan are:

- a - General courts which have the authority to consider all cases, unless the law clearly entrusts the handling of cases to other courts.

These courts are: cassation, appellate, provincial courts, primary courts, and other courts which are established, when necessary, on the proposal of the Council of Justice of the Justice Ministry and approval of the President of the Republic.

- b - Special courts which have the power to handle cases which the law clearly entrusts to them. These courts are:

1. The sitting of the Council of Justice as the high court for judges.
2. Juvenile delinquent courts.
3. Labour and labourers' courts.
4. Special primary civil servant courts and other courts which will be established, when necessary, on the proposal of the Council of Justice with the approval of the President of the Republic.

Eighth - The authority of the judiciary consists of attending to all disputes, in which real or legal persons, including the component parts of the state, are defendants and in whose presence disputes are handled.

The area of the authority of the army tribunals, exclusive to offences in the army of Afghanistan, is outside the order of this decree.

Ninth - The Law on the organization and authority of the judiciary which was promulgated according to a legislative decree and all its supplements are abrogated from July 17, 1973 but those provisions which do not contravene the provisions of this decree are enforceable in the name of the law of authority and organization of the judiciary of the Republic of Afghanistan.

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Tenth - The judges of the Republic of Afghanistan are appointed on the proposal of the Justice Ministry with the approval of the President of the State.

Eleventh - Those judges who had the judicial authority in accordance with the previous laws prior to the promulgation of this decree, are obliged, with the proclamation of the Republic, to take the following oath in the name of the Republic of Afghanistan to be able to preserve their judicial authority:

I swear in the name of God Almighty to perform judicial duties honestly and with dignity and respect the tenets of Holy Islam and other values of the Republic of Afghanistan and decrees and laws of the state, to preserve the secrets of my duty and to be loyal to the republican state of Afghanistan.

Twelfth - In cases under their study the courts should enforce the provisions of the republican decrees and state laws which do not contravene the values of the republicanism. If there is no order in the above mentioned cases, they shall issue decisions in pursuance of the general principles of the Hanafi Fiqh of Islam and within the limits of instruction set by the republican decrees which should, in the best way, attain justice.

Thirteenth - All the definitive decisions of the courts which are being issued after the promulgation of this decree shall be enforceable, but in case of a court order for the execution of a person, the enforcement of this order depends on the endorsement of the President of the Republic.

Fourteenth - Judges appointed in accordance with the orders of the Republic acquire judicial authority in accordance with the provision of this decree.

Fifteenth - Those judges who do not rightly carry out their duties, or commit offences in performing the same, will be investigated in accordance with the law and will be sentenced to punishment set by the law.

Sixteenth - The administrative personnel of the judiciary and other state administrative personnel are subservient to the general and supplementary provisions of the state laws for civil servants. The promulgation of these orders shall be proclaimed in accordance with the republican decrees.

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Seventeenth - The provisions of the laws promulgated prior to the proclamation of the Republic of Afghanistan are enforceable on the condition that they do not contravene the spirit of the republican decrees and their related laws.

Eighteenth - The administrative powers mentioned in this decree are enforceable pending the promulgation of the new Constitution.

Order is issued for the promulgation of the above-mentioned provisions.

Signed Mohammad Daud
The President of the Republic.

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